

Amendment No. 1 to SB0989

Briggs  
Signature of Sponsor

**AMEND Senate Bill No. 989\***

**House Bill No. 1365**

by deleting the language ", not to exceed a total of ten percent (10%) of the total cost of coverage" from § 8-27-901(5) in Section 3.

**AND FURTHER AMEND** by deleting 8-27-901(17) in Section 3 and substituting instead:

(17) "Third-party for medical services" or "third party" means a person or entity that contracts with either the plan or the third-party administrator to provide payment for claims of healthcare items or services for plan participants. The term includes, but is not limited to, a health and liability insurer, an administrator of an ERISA plan, an employee welfare benefit plan, a workers' compensation plan, CHAMPUS, Medicare, and other parties that are by statute, contract, or agreement legally responsible for payment of a claim for a healthcare item or service;

**AND FURTHER AMEND** by deleting the language "third-party insurer or other" from the first sentence of 8-27-905(a) in Section 3.

**AND FURTHER AMEND** by deleting the following language from § 8-27-906(d) in Section 3:

If the plan participant's attorney or representative fails to provide notice to the plan as required by this section, upon motion by the plan, the plan participant's attorney's interest in any recovery must be reduced by up to fifty percent (50%) with the forfeited amount paid to the plan.

and substituting instead the following:

If the plan participant's attorney or representative is on notice that the plan has an interest in the judgment or settlement and fails to provide notice to the plan as required by this section, upon motion by the plan, the plan participant's attorney's interest in any

recovery must be reduced by up to fifty percent (50%) with the forfeited amount paid to the plan.

**AND FURTHER AMEND** by deleting § 8-27-906(k) in Section 3 and substituting instead:

(k) If a plan participant plaintiff or the plan participant's attorney, or both, fail to timely remit to the counsel or other individual specified in the plan document or SPD the plan's pro rata portion of judgment moneys received, upon motion by the plan, the court may, in its discretion, award to the plan attorney's fees for the cost of the motion, interest on moneys withheld, as well as the amounts withheld, and order those who failed to timely release funds to forfeit to the plan all sums received in payment of the judgment. If the court finds that a motion under this subsection (k) was filed in bad faith, the court may award to the plan participant plaintiff or the plan participant's attorney, or both, attorney's fees for the cost of the motion, and order the plan to forfeit its net subrogation or reimbursement interest.